

Little Hoover Commission Testimony
January 26, 2005

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The Governor's recent proposal to the Little Hoover Commission recommends the elimination of 88 public boards and commissions in California. The proposal would abolish some of these boards entirely, while others would be absorbed into the Administration.

The Governor's proposal is founded on the premise that eliminating public oversight boards and commissions will make California's government more accountable. But this premise flies in the face of the open and participatory democracy that Californians value. Transparency and public oversight are necessary for fair and effective government in the minds most California residents. In November 2004, Californians voted overwhelmingly in favor of Proposition 59, a measure to make government more transparent with greater public access.

Shifting power and decision-making from the public eye into the state bureaucracy does not make our state government more accountable. Instead, it amounts to little more than a power grab by Governor Schwarzenegger.

It is a valuable exercise to review California's state boards and commissions, but that review should be guided by principles of open and participatory state government. We urge the Commission to consider the following principles for evaluating which boards and commissions should be maintained:

1. State government should be open and accountable to taxpayers and should encourage meaningful public input.
2. Opportunities for shared decision-making on contentious issues should be preserved.
3. A balance of power between the executive, legislative, and judicial branches should be maintained.
4. Outside technical expertise should be captured when feasible to make well-informed policy decisions.
5. The rights of individuals to independent review of bureaucratic agency decisions should be preserved.

The Governor's recommendations related to the Labor Agency fall far short of these principles. The Governor proposes to eliminate two bodies – the Commission on Health and Safety and Workers' Compensation and the Industrial Welfare Commission – which offer valuable opportunities for labor and employer representatives to reach common ground on contentious issues. The Governor has also proposed to abolish three independent appeals boards, which would violate the due process rights of tens of thousands of California workers and employers.

The Commission on Health and Safety and Workers' Compensation (CHSWC) oversees the workers' comp system and makes policy recommendations to improve workers' compensation in California. CHSWC provides a rare opportunity for those most invested in this system—workers and employers—to develop consensus recommendations. CHSWC developed many of the recommendations that were ultimately included in the recent workers' comp legislative reforms. Absorbing CHSWC into the Labor Agency, as the Governor proposes, would take away this valuable, independent forum for building labor-management consensus.

This proposal also cannot be justified on fiscal grounds. CHSWC is entirely user-funded by employers. CHSWC board members earn a mere \$100 per meeting plus travel expenses. Further, the recommendations made by CHSWC have led to savings in the workers' comp system that far exceed the Commission's limited budget. CHSWC is an excellent example of a well-functioning, effective, and accountable public body that should remain independent.

The Governor has also proposed to absorb the Industrial Welfare Commission (IWC) into the Labor Agency. The IWC wage orders govern wages, hours, and working conditions in California. This labor-management body has operated for decades to resolve these workplace issues and should continue to do so. It remains unclear under the Governor's proposal how these issues would be resolved within the Labor Agency.

The most outrageous proposal related to the Labor Agency is the proposed elimination of the independent appeals boards that review decisions related to Cal/OSHA, workers' compensation, and unemployment insurance. The Governor has proposed to create an "Employment and Benefits Appeals Board" (EBAB) that would function within the Labor Agency. This consolidated appeals board would take over the functions of the Workers' Compensation Appeals Board (WCAB), Unemployment Insurance Appeals Board (UIAB), and the Cal/OSHA Appeals Board. Each year thousands of injured and laid-off workers and employers appeal agency decisions to these boards for independent review.

This consolidated appeals board threatens to curtail due process rights for workers and employers. The Governor's proposal:

1. **Allows the Governor to staff the consolidated board with his own "at will" appointees.** At-will appointees in this newly created Board would serve at the pleasure of the Governor and would therefore be subject to dismissal at any time. As a result, Board members would likely be much more cautious about issuing rulings perceived to conflict with the Administration. Should someone in the Administration disagree with a Board member's decision, he or she could be replaced immediately.

Justice cannot be served when individuals fear for their jobs with each judicial decision they make. Term appointments are critical to insulate Board members from the political environment and to allow them to make fair and balanced decisions.

2. **Limits the technical expertise available for review of decisions.** Each of these three programs has independent and complicated rules, regulations, and case law that govern them. A consolidated board would require a UI Appeals Board member to rule on whether treatment guidelines were appropriately followed for an injured worker in workers' comp. Likewise, a Workers' Comp Appeals Board member would need to evaluate whether EDD

assigned the correct “base period” wages for a UI recipient. Such a significant expansion in the scope of topics facing each Appeals Board member would undermine the quality of Board decisions.

3. **Multiplies administrative difficulties due to different funding streams.** The Workers’ Comp Appeals Board is user funded, completely paid for by California employers. The UI Appeals Board is funded exclusively by federal dollars. The Cal/OSHA Appeals Board is funded equally by federal and state dollars. A consolidated board would require an administratively burdensome and costly timekeeping system for all staff and Board members.

The proposal that the Governor has submitted to the Little Hoover Commission moves California in the wrong direction. Under the guise of “accountability,” the Governor has proposed to centralize more power within his Administration. Doing so would sacrifice the values of open and participatory democracy that Californians cherish.

We urge the Commission to review the Governor’s proposal with these principles in mind, and to reject those proposals that violate them. Among those proposals related to the Labor Agency, we urge the Commission to reject the proposals to eliminate or absorb CHSWC, the IWC, and the three independent appeals boards.